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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/625,603	07/24/2003	Hideaki Ogawa	1259-0233P	7924

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EXAMINER	
CHIO, TAT CHI	

ART UNIT	PAPER NUMBER
2621	

NOTIFICATION DATE	DELIVERY MODE
10/30/2008	ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

mailroom@bskb.com

Office Action Summary	Application No.	Applicant(s)	
	10/625,603	OGAWA, HIDEAKI	
	Examiner	Art Unit	
	TAT CHI CHIO	2621	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE *3* MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *10 July 2008*.

2a)☒ This action is **FINAL**. 2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-28* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-28* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

DETAILED ACTION

Response to Arguments

1. Applicant's arguments filed 7/10/2008 have been fully considered but they are not persuasive.

Applicant argues that the combination of Satoh et al. and Tanaka et al. does not teach “a judgment device for judging whether a record format of said recording medium is suitable for recording moving image data” and “said recording medium controller reformatting said recording medium with high speed record format suitable for the record of said moving image data when said judgment device judges that said record format is unsuitable for recording said moving image data.”

In response, the examiner respectfully disagrees. Satoh et al. teach that judging whether the disc is formatted and if the disc is not formatted, the formatting process will be started to format the disc in Fig. 91, column 33 and line 42-column 34 and line 12. When the disc is in a non-formatted state, it is not suitable for recording moving image data at high speed. When the disc is in a formatted state, it is suitable for recording moving image data at high speed. Thus, the disc has to be formatted to be suitable for recording moving image data at high speed if it is judged in a non-formatted.

Applicant mentioned that "the type of record format of the recording medium is *automatically* detected and if necessary, the recording medium is reformatted with the high-speed format, which is suitable for the recording of moving image data."

In response to applicant's argument that the references fail to show certain features of applicant’s invention, it is noted that the features upon which applicant relies

(i.e., the type of record format of the recording medium is *automatically* detected) are not recited in the rejected claim(s). Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

2. Claims 1, 5, 7, and 11-28 are rejected under 35 U.S.C. 103(a) as being unpatentable over Satoh et al. (5,914,787) in view of Tanaka et al. (US 6,845,438 B1).

Consider claims 1, 5, and 7, Satoh et al. teach a moving image recording apparatus for recording moving image data on a recording medium, said moving image recording apparatus comprising: a judgment device for judging whether a record format of said recording medium is suitable for recording said moving image data (col. 33, line 42-col. 34, line 12 and Fig. 91); recording medium controller for controlling operation of said recording medium, said recording medium controller reformatting said recording medium with a high-speed record format suitable for the record of said moving image data when said judgment device judges that said record format is unsuitable for recording said moving image data (col. 33, line 42-col. 34, line 12 and Fig. 91). However, Satoh et al. do not explicitly teach achieving high-speed recording of moving image by reformatting the memory card in a camera.

Tanaka et al. teach that it is possible to achieve high-speed recording of moving image in a camera (col. 24, lines 11-32). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to try to achieve high-speed recording of moving image by reformatting the recording medium.

Consider claims 11, 17, and 23, Tanaka et al. further teach the moving image recording apparatus, wherein suitability of said recording medium is determined based on the cluster size of the recording medium (col. 24, lines 19-22).

Consider claim 12, 18, and 24, Tanaka et al. further teach the moving image recording apparatus, wherein a high-speed format corresponds to a record format with a cluster size large enough to enable the recording medium to record the moving image data at a speed fast enough such that photography of the moving image data can be performed substantially continuously (col. 24, lines 11-32, since the high-speed writing in the subsequent image writing sequence is enabled, the cluster size is large enough to record moving image data at a speed fast enough such that photography).

Consider claim 13, 19, and 25, Tanaka et al. further teach the moving image recording apparatus wherein an unsuitable record format for recording said moving image data corresponds to a record format with a cluster size which is insufficient to enable the recording medium to record the moving image data at a speed fast enough such that photography of the moving image data can be performed substantially continuously (col. 24, lines 11-32, since the cluster size is not large enough, then erase operation is needed to achieve high speed recording).

Consider claims 14, 20, and 26, Satoh et al. teach teach the moving image recording apparatus wherein said judgment device judges the suitability of the record format of said recording medium before photography or during photography of the moving image data (col. 33, line 64-col. 34, line 5).

Consider claims 15, 21, and 27, Satoh et al. teach the moving image recording apparatus wherein said judgment device judges the suitability of the record format of said recording medium upon a depression of a shutter button initiating photography of the moving image data (col. 33, line 64-col. 34, line 5).

Consider claims 16, 22, and 28, Satoh et al. teach the moving image recording apparatus wherein said judgment device judges the suitability of the record format of said recording medium upon a switching of the moving image recording apparatus to a moving image photography mode (col. 36, lines 45-51).

3. Claims 2-4, 6, and 8-10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Satoh et al. (5,914,787) in view of Tanaka et al. (US 6,845,438 B1) as applied to claims 1, 5, and 7 above, and further in view of Brown, III et al. (6,038,636).

Consider claims 2 and 8, Satoh et al. teach all the limitations in claim 1 but do not explicitly teach a moving image recording apparatus, wherein said recording medium controller detects the presence or absence of existing data in said recording medium when said record format is unsuitable for recording said moving image data.

Brown, III et al. teach a moving image recording apparatus, wherein said recording medium controller detects the presence or absence of existing data in said recording medium when said record format is unsuitable for recording said moving image data (col. 14, lines 21-27). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to employ the technique of detecting whether any more files are in the recording medium to notify the controller if the recording medium is ready to be formatted.

Consider claims 3 and 9, Brown, III et al. further teach a moving image recording apparatus, further comprising: an internal memory for temporarily storing said existing data; and an internal memory controller for recording said existing data recorded on said recording medium onto said internal memory when said record format is unsuitable for recording said moving images data (col. 14, lines 37-45).

Consider claims 4 and 10, Brown, III et al. further teach a moving image recording apparatus, wherein said recording medium controller records said existing data recorded on said internal memory onto said reformatted recording medium (col. 14, lines 37-45).

Consider claim 6, Brown, III et al. further teach a method, further comprising the steps of: (d) detecting the presence or absence of existing data recorded on said recording medium (col. 14, lines 21-27), when said record format is judged to be unsuitable for recording said moving image data; (e) temporarily evacuating said existing data to an internal memory when said existing data is in said recording medium

(col. 14, lines 37-45); and (f) reconstructing said existing data evacuated to said internal memory in said reformatted recording medium (col. 14, lines 37-45).

Conclusion

4. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to TAT CHI CHIO whose telephone number is (571)272-9563. The examiner can normally be reached on Monday - Thursday 9:00 AM-5:00 PM EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Thai Tran can be reached on (571)-272-7382. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/T. C. C./
Examiner, Art Unit 2621

/Thai Tran/
Supervisory Patent Examiner, Art Unit 2621